## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE

SOUND INPATIENT PHYSICIANS, INC. AND	)	
ROBERT A. BESSLER, M.D.,	)	
	)	
Plaintiffs,	)	CIVIL ACTION NO.
	)	2:19-cv-02034-TLP-dkv
v.	)	
	)	
T.M. CARR, M.D.,	)	HEARING REQUESTED
	)	
Defendant	)	
	)	

## **DEFENDANT'S PARTIAL MOTION TO DISMISS PURSUANT TO RULE 12(B)**

Pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure and Local Rule 12.1, Defendant T.M. Carr ("Dr. Carr") moves to dismiss the First Cause of Action of Plaintiffs Sound Inpatient Physicians, Inc. and Robert A. Bessler, M.D. ("Plaintiffs"), compelling arbitration of that claim and staying any claims not dismissed until arbitration concludes. Dr. Carr further moves, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and Local Rule 12.1, to dismiss Plaintiffs' Second Cause of Action for Breach of Representations and Warranties relating to employment termination losses, based on their failure to state a claim upon which relief can be granted.

In support of his motion, Dr. Carr submits a supporting memorandum of law, filed contemporaneously herewith. In further support of his 12(b)(1) motion to dismiss Plaintiff's First Cause of Action only, Dr. Carr contemporaneously files the Declarations of T.M. Carr, M.D and Mark A. Nebrig.

Hearing Requested: As permitted by Local Rule 7.2(d), Defendant requests a hearing on his Partial Motion to Dismiss. Defendant believes that an oral argument on Defendant's motion would be helpful to the Court because counsel possess historical knowledge of the facts and

circumstances surrounding the transaction underlying Plaintiffs' claims and are intimately familiar with the terms of the transaction documents. Counsel's knowledge would assist the Court in understanding key transaction provisions, thereby facilitating its ruling on the motion.

WHEREFORE, Dr. Carr respectfully requests that the Court dismiss Plaintiffs First and Second Causes of Action with prejudice and grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Emily C. Pera

Emily C. Pera (Tennessee Bar No. 023830) Mark A. Nebrig (Admission *Pro Hac Vice* Pending)

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ATTORNEYS FOR DEFENDANT

## **CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that on March 12, 2019, the foregoing **DEFENDANT'S PARTIAL MOTION TO DISMISS PURSUANT TO RULE 12(B)** was filed electronically through the Court's CM/ECF system and a true and correct copy was served to all counsel of record by electronic mail as follows:

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This the 12th day of March, 2019.

/s/ Emily C. Pera Emily C. Pera